

HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE

AND

HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

Writ Appeal No.1281 of 2006

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Between:

The Christian Welfare Society, Baptist

Church, Jangaon Field bearing registration No.

1420/1986, represented by its Secretary,

Kandula John.

.....Appellant

And

Joint Collector,

Warangal District,

Warangal and another. ...**Respondents**

:: J U D G M E N T ::

Counsel for the Appellant : Shri P. Pratap Reddy

Counsel for the Respondents : Government Pleader for

Revenue

December 06, 2006

Per G.S. SINGHVI, CJ

This is an appeal for setting aside order dated 4-9-2006 passed by the learned Single Judge, whereby he dismissed the writ petition filed by the appellant for quashing notice dated 8-8-2006 issued by Mandal Revenue Officer, Jangaon (respondent No.2).

The appellant is the owner in possession of Ac.6.00 of land comprised in Survey Nos.87/1 and 88/C of Jangaon Town and Municipality, Warangal District. In furtherance of mutation proceedings dated 3-2-2001 issued by respondent No.1, the appellant's name was entered in the revenue records. Respondent No.1 also issued pattadar passbook and title deed in favour of the appellant. After five years and six months, respondent No.2 issued notice dated 8-8-2006 and called upon the appellant to surrender the passbook and title deed of the land in dispute on the ground that Joint Collector, Warangal had cancelled the mutation proceedings.

The appellant challenged the aforementioned notice by filing writ petition under Article 226 of the Constitution of India, which was registered as Writ Petition No.18400 of 2006. In the affidavit filed by Kandula John, Secretary of the appellant society, it was pleaded that before cancelling the mutation and issuing notice for surrender of pattadar passbook etc., the respondents did not give the society notice and opportunity of hearing. In paragraphs 5, 6 and 7 of his affidavit, the deponent averred as under:

"5. I submit that we have received a notice from the second respondent in Proceedings No. C/4701/2000, dated 8.8.2006 directing the petitioner's society to surrender the pass books and title deeds issued by the second respondent in favour of the petitioner's society in respect of the land of an extent of Ac. 6.00 gts., in S.No. 87/1 (Ac. 0.21 gts.) and S.No. 88/C (Ac. 5.19 gts.) on the ground the Joint Collector, Warangal District, the 1st respondent herein issued proceedings in Case No. E5/6693/2003, dated 20.5.2006 saying that the property of Association of Baptist Churches, Jangoan has no right in the lands. The petitioner submits that in proceedings before the Joint Collector, the petitioner's society is not a party and as such the said order is not binding on the petitioner. The second respondent has not issued any show cause notice calling explanation from the petitioner society and

straight away passed the impugned order even though it is mentioned as a notice. The petitioner submits that before passing any impugned order the respondents ought to have issued notice seeking explanation to substantiate their right and title in respect of the said lands before the respondents. But the second respondent without giving any opportunity passed the impugned order for cancelling their pass books and title deeds and directed the petitioner to hand over the same to the respondents.

6. I submit that the appellants before the first respondent claiming old students of the Christian community have filed a revision petition aggrieved by the compromise recorded by the second respondent in file No. A/5731/1998, dated 8.2.2001 to an extent of Ac. 11.20 gts. The first respondent set aside the said compromise recorded by the first respondent to the extent of Ac.. 11.20 gts., in S.Nos. 87, 88, 89 and 158 (old), new 158/1 of Jangaon village and Mandal, Warangal District. Aggrieved by the order of the first respondent dt.20.5.2006 in file No. D5/6693/2003 some of the respondents filed a revision petition before this Hon'ble Court in C.R.P.No. 3307 of 2006 and obtained status quo. The said C.R.P is pending before this Hon'ble Court.

7. I submit that the second respondent after considering the rival claims put forth by the parties and after obtaining the consent issued mutation proceedings in favour of the petitioner's society to the extent of Ac. 6.00 gts. in file No. Rc.A/4701/2000, dated 3.2.2001. This proceedings were not challenged by any body before the first respondent. In fact the petitioner's society divided the said lands into plots and allotted to its members. Some of the members constructed their houses. At this juncture the second respondent without issuing any notice passed impugned orders for cancelling the pattadar pass books, title deeds and directed the petitioner's society to hand over the same."

The learned Single Judge, who heard the writ petition at the admission stage, did not issue formal notice to the respondents requiring them to file counter affidavit and dismissed the writ petition summarily by recording the following observations:

"A perusal of the impugned order would show that as per the judgment of the Supreme Court of India dated 21-07-1989 in C.A.No.2098 of 1980, the petitioner-society has only possessory rights and no ownership rights. This was informed to MRO by the Joint Collector. Therefore, the proceedings dated 03-02-2001, whereby and whereunder favourable mutation proceedings issued, were cancelled. When those proceedings were cancelled, it is always permissible to MRO to make necessary endorsement on PPB and title deed and cancel them. In that view of the matter, the impugned order/notice does not suffer from any infirmity. If the petitioner is aggrieved, it may agitate the matter before the appropriate higher revenue official."

Sri P.Pratap Reddy assailed the impugned order by arguing that the reason assigned by the learned Single Judge for non-suiting the appellant is legally untenable. He submitted that the appellant's plea regarding violation of the rules of natural justice had remained uncontroverted because the respondents were not

called upon to file counter affidavit and yet the learned Single Judge dismissed the writ petition summarily without going into the issue of the violation of the rules of natural justice.

Learned Government Pleader for Revenue fairly conceded that before cancelling the mutation proceedings and calling upon the appellant to surrender the pattadar passbook and title deed in respect of the land in question, the competent authority did not give any action-oriented notice and opportunity of hearing to the appellant.

In view of the fair stand taken by the learned Government Pleader for Revenue, we have no hesitation to hold that the action of respondent No.1 to cancel the mutation proceedings and the notice issued by respondent No.2 to the appellant for surrender of pattadar passbook and title deed are vitiated due to violation of the rules of natural justice and the learned Single Judge committed a serious error by refusing to entertain the prayer of the appellant.

In the result, the appeal is allowed. The order under challenge is set aside. As a sequel to this, Writ Petition No.18400 of 2006 filed by the appellant is allowed and the order passed by respondent No.1 for cancellation of the mutation proceedings and notice issued by respondent No.2 requiring the appellant to surrender the pattadar passbook and title deed are quashed. However, it is made clear that this order shall not preclude the competent authority from passing fresh order in accordance with law after hearing the appellant's representative.

In view of the disposal of the writ appeal in the manner indicated above, WAMP.No.2698 of 2006 filed by the appellant for grant of interim relief is disposed of as infructuous.

G.S.SINGHVI, C.J.

6th December, 2006

C.V.NAGARJUNA REDDY, J.